



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/616,303	07/14/2000	EDWARD L. SINOFKY	101327-146	6336

21125 7590 11/25/2002

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

EXAMINER

CHANG, CHING

ART UNIT	PAPER NUMBER
----------	--------------

3748

DATE MAILED: 11/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/616,303

Applicant(s)

SINOFSKY ET AL.

Examiner

Ching Chang

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-24 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 9-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

This Office action is in response to Applicants' election of claims 1-24 in Paper No. 7 filed on August 29, 2002 is acknowledged. Because applicants did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). This requirement is still deemed to be proper and is therefore made FINAL.

Claim 25 stands withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention.

Specification

1. The disclosure is objected to because of the following informalities:
 - " port 23 " in line 7 Page 4 appears to be -- port 22 --, as shown in Fig. 1.
 - " with the heart " in line 7 Page 4 appears to be – within the heart --.
 - " body lumen 53 " in line 9 Page 4 appears to be – body lumen 52 --, as shown in Fig. 1.

Appropriate corrections are required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. ***Claims 1-8 are rejected under 35 U.S.C. 102(b) as anticipated by Stevens et al. (US Patent No. 5,800,493).***

Stevens discloses an anchoring balloon device (1) comprising: a flexible elongate member (3) having an interior lumen extending therethrough for the delivery of an inflation fluid (25); an expandable balloon (5) disposed about a portion of the flexible elongate member and in fluid communication with the lumen via at least one port; and a pressure-relief valve (18) for regulating the pressure of fluid within the expandable balloon (See Col. 4 line 37 through Col. 5, line 10), wherein the flexible elongate member is a catheter, wherein the pressure-relief valve provides irrigation, wherein the pressure-relief valve regulates pressure, further comprising means (30, 25, 18) for inflating the expandable balloon, wherein the means for inflating the expandable balloon comprises a conduit defined in the interior lumen of the flexible elongate member for directing fluid into the expandable balloon, wherein the expandable balloon comprises polymeric material (See Col. 4, line 29 through line 36), wherein the expandable

Art Unit: 3748

balloon, when fully expanded, engages and is in direct contact with the tissue of a body lumen (6, 27)(See Col. 4, line 9 through line 13).

Allowable Subject Matter

4. Claims 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 13-24 are allowed.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Saadat et al. (US Patent No. 6,139,570).
- Sinofsky et al. (US Patent No. 6,004,261).
- Roth et al. (US Patent No. 5,779,673).
- Shoup et al. (US Patent No. 5,591,129).
- Owens et al. 9US Patent No. 4,986,830).
- Sinofsky (US Patent No. 4,929,246).

- Cribier et al. (US Patent No. 4,777,951).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ching Chang whose telephone number is (703)306-3478. The examiner can normally be reached on M-F 7:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E Denion can be reached on (703)308-2623. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9302 for regular communications and (703)872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.

Patent Examiner



Ching Chang
November 20, 2002



THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700